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# W5a

Staff: Carrie A. Bluth  
Staff Report: September 1, 2005  
Hearing Date: September 14, 2005  
Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director  
Robert S. Merrill, North Coast District Manager  
Carrie A. Bluth, Coastal Planner

SUBJECT: **Humboldt County LCP Amendment No. HUM-MAJ-1-98-C (Shelter Cove Vacation Rentals) (Meeting of September 14, 2005)**

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## SYNOPSIS

### Description of Proposed LCP Amendment:

The proposed amendment to the Humboldt County Local Coastal Program would effectuate changes to both the South Coast Area Land Use Plan (SCAP) and the Coastal Zoning Regulations to allow for a type of transient habitation (Vacation Home Rentals) in areas of Residential Single Family (RS) and Mixed Residential Use (R2) zoning within the community of Shelter Cove in southern Humboldt County. The amendments would affect approximately 2,300 lots within the Shelter Cove subdivision.

The proposal would amend the LUP to identify Vacation Home Rentals as a principally permitted use within the Residential Medium and Low-Density land use designations.

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With respect to the Implementation Plan component of the LCP, the amendment would define the Vacation Home Rental (VHR) use type, add the VHR use to the list of defined Visitor-Serving Facilities, establish a Vacation Home Rental or “V” combining zone, and apply the “V” combining zone to all of the Residential Single Family and Mixed Residential zoned parcels in the Shelter Cove community. Where applied, the “V” combining zone designation would allow for the short-term rental or transient use of single family homes and duplexes for vacation rentals upon issuance of a Special Permit, and subject to specified performance standards embedded within the combining zone regulation. The Special Permit process is a mechanism already embodied within the County Zoning Code for approving certain specified Temporary Uses. The process is similar to that used to approve a conditional use in that it requires public noticing. However, unlike the conditional use permit, a public hearing is only required if requested by a member of the public.

According to the County, the purpose of the amendment is to increase coastal public access by increasing visitor serving accommodations, and to ensure that the rental of residences for transient use takes place in a manner that is compatible with residential communities and neighborhoods. The aforementioned Special Permit process, which invokes specified performance standards to which the owner/operator of a Vacation Home Rental would be subject, is intended to achieve this objective. The performance standards proposed for inclusion via the proposed IP ordinance would establish parameters regarding the maximum number of occupants allowed, posting of signs, parking, and garbage disposal/pick-up. Additionally, the ordinance would require vacation rentals to obtain a business license, pay transient occupancy taxes, and be managed by a local contact person available 24 hours a day to respond to tenant and neighborhood questions or concerns.

### **Summary of Staff Recommendation:**

Staff recommends certification of the amendment only if it is modified to more comprehensively address the increased intensity of use and accompanying impacts of vacation rentals on coastal resources including public access and infrastructure capacity. Although residential vacation rentals provide opportunities for public access and recreation that are protected by the Coastal Act and the LCP, they can also have adverse impacts on coastal resources without the proper regulatory framework and necessary standards in place to ensure the use is governed in a manner which protects access and recreation opportunities, consistent with the need to preserve the integrity of residential areas and shield natural resource areas from overuse. The suggested modifications are intended to ensure a cohesive and comprehensive planning and regulatory mechanism exists for VHR use, and to augment the proposed regulatory standards to ensure the certified LCP is carried out in a manner consistent with the applicable provisions of the Coastal Act and certified LCP. Suggested Modifications are summarized as follows:

### Land Use Plan

- **Suggested Modification A.** would modify the proposal to add Vacation Home Rental Use type to the list of principally permitted uses within Residential Medium and Low-Density designations to indicate that Vacation Home Rental use would be principally permitted only upon issuance of a Special Permit and subject to compliance with certain performance standards proposed to regulate the VHR use, which are to be set forth in full in the Implementation Plan.

### Implementation Plan

- **Suggested Modification B.** would modify the proposed performance standards for Vacation Home Rentals to also require the owners/operators of Vacation Home Rentals to provide evidence that water and sewer service providers have confirmed that there is adequate service capacity to accommodate the proposed use.

With these modifications, staff believes the Land Use Plan component of the amendment will be consistent with the Chapter 3 Policies of the Coastal Act, **and** the implementation component will be adequate to carry out the certified Land Use Plan.

The appropriate motions and resolutions to adopt the staff recommendation are found on pages 3-6 of this report.

### Analysis Criteria:

The relationship between the Coastal Act and a local government's Local Coastal Program can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving guidance as to the kinds, locations, and intensities of coastal development. The Implementation Program (IP), or zoning portion of an LCP typically sets forth zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a particular parcel. The LUP must be consistent with the Coastal Act. The IP must conform with, and be adequate to carry out the policies of the LUP.

In this case, the proposed LCP amendment affects both the LUP and IP components of the Humboldt County LCP. The LUP portion of Humboldt County's LCP consists of six (6) Area Plans. The Area Plan affected by the proposed amendment is the Southcoast Area Plan (SCAP). The proposal would effectuate changes to both the SCAP and the Coastal Zoning Regulations and Maps.

**Additional Information:**

For further information, please contact Robert Merrill at the North Coast District Office (707) 445-7833. Correspondence should be sent to the District Office at the above address.

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**I. MOTIONS, STAFF RECOMMENDATIONS, AND RESOLUTIONS FOR LCP AMENDMENT NO. HUM-MAJ-1-98-C**

**A. DENIAL OF LUP AMENDMENT NO. HUM-MAJ-1-98-C, AS SUBMITTED:**

**MOTION I:**     *I move that the Commission certify Land Use Plan Amendment No. HUM-MAJ-1-98-C as submitted by the County of Humboldt.*

**STAFF RECOMMENDATION TO DENY:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION I TO DENY CERTIFICATION OF THE LAND USE PLAN AS SUBMITTED:**

The Commission hereby denies certification of the Land Use Plan Amendment No. HUM-MAJ-1-98-C as submitted by the County of Humboldt and adopts the findings set forth below on the grounds that the land use plan amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the land use plan amendment may have on the environment.

**B. CERTIFICATION OF LUP AMENDMENT NO. HUM-MAJ-1-98-C WITH SUGGESTED MODIFICATIONS:**

**MOTION II:**     *I move that the Commission certify Land Use Plan Amendment No. HUM-MAJ-1-98-C for the County of Humboldt if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

**RESOLUTION II TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies Land Use Plan Amendment No. HUM-MAJ-1-98-C for the County of Humboldt if modified as suggested and adopts the findings set forth below on the grounds that the land use plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the land use plan amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the land use plan amendment may have on the environment.

**C.     DENIAL OF IMPLEMENTATION PLAN AMENDMENT NO. HUM-MAJ-1-98-C, AS SUBMITTED:**

**MOTION III:**     *I move that the Commission certify Implementation Plan Amendment No. HUM-MAJ-1-98-C as submitted by the County of Humboldt.*

**STAFF RECOMMENDATION TO DENY:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings.

The motion to certify as submitted passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION I TO DENY CERTIFICATION OF THE  
IMPLEMENTATION PLAN AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Plan Amendment No. HUM-MAJ-1-98-C as submitted by the County of Humboldt and adopts the findings set forth below on the grounds that the Implementation Plan amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the land use plan amendment may have on the environment.

**D. APPROVAL OF IMPLEMENTATION PLAN AMENDMENT NO. HUM-MAJ-98-C IF MODIFIED AS SUGGESTED:**

**MOTION IV:**     *I move that the Commission certify Implementation Program Amendment No. HUM-MAJ-1-98-C for Humboldt County if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM  
AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies Implementation Program Amendment No. HUM-MAJ-1-98-C for the County of Humboldt, if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications will conform with, and be adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further

feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

## **II. SUGGESTED MODIFICATIONS**

### **A. Suggested Modifications to the LUP Amendments**

Add the following language to Section 5.20 of the Southcoast Area Plan LUP. Language to be added to the existing policy is incorporated where proposed, and underlined. There are no proposed deletions to the text of the policy:

#### **Section 5.20 URBAN PLAN DESIGNATIONS**

...

(The standards below apply only within Urban Limits as shown in the Area Plan.)

...

#### **RM: RESIDENTIAL/MEDIUM DENSITY**

**Purpose:** to make efficient use of available land for residential purposes.

**Principal Use:** detached single family homes, duplexes, and vacation home rentals in specified areas, and guest houses. Vacation home rentals are principally permitted only upon issuance of a Special Permit, and compliance thereafter with accompanying performance standards set forth in Section 313-37 of the Coastal Zoning Regulations, including but not limited to those addressing: maximum allowable occupancy, parking and demonstration of adequate public service capacity to support the use.

#### **RL: RESIDENTIAL/LOW DENSITY**

**Purpose:** to allow the development of homeowner residential uses making conservative use of urban land where adequate services are available.

**Principal Use:** detached single family residences, and vacation home rentals in specified areas. Vacation home rentals are principally permitted only upon issuance of a Special Permit, and compliance thereafter with accompanying performance standards set forth in Section 313-37 of the Coastal Zoning Regulations, including but not limited to those addressing: maximum allowable occupancy, parking and demonstration of adequate public service capacity to support the use.

## **B. Suggested Modifications to the IP Amendment**

Suggested modification to Ordinance No. 2153 proposed to amend Section 313-37 (formerly A314-65) of the Coastal Zoning Regulations (attached as Exhibit No. 2 ). Language to be added is underlined; language ~~stricken through~~ is to be deleted:

Section 313-37 (A314-65.) V-Vacation Home Rental

...

D. Performance Standards. All vacation home rentals are subject to the following performance standards:

- (1) Compliance with residential parking standards as required by Section 313.109.1 (formerly 316.13) of this code;
- (2) The number of occupants shall not exceed ten (10) persons;
- (3) Availability of the rental unit to the public shall not be advertised on-site
- (4) Owners of rental units must provide the name, address and telephone number of a contact person for the unit to all occupied residences within a 300-foot radius of the rental unit. The notice shall be mailed to property owners prior to renting the unit and thereafter as contact information changes. An owner of a rental unit who does not reside in a five-mile radius of the residence being rented, shall designate a person within a 5-



mile radius of the rental unit, as the local contact person. The owner or contact person must be available 24 hours a day to respond to tenant and neighborhood questions or concerns and to otherwise be responsible for assuring that the rental unit complies with the requirements of this Section, and other applicable provisions of the code;

- (5) Prior to commencing vacation home rentals, the applicant shall obtain a Business license from the Humboldt County Tax Collector. The owner/operator shall collect and remit to the Humboldt County Tax Collector the transient occupancy tax;
- (6) It is the responsibility of the property owner to ensure that trash will be disposed of (picked-up) on a weekly basis;
- (7) Prior to commencing vacation home rentals, the applicant shall submit evidence demonstrating that the service provider(s) has been informed of the proposed use of the property as a vacation rental, and has confirmed that there is adequate service capacity available to accommodate this use.
- ~~(7)~~ (8) Compliance with the requirements of this Section shall be considered conditions of approval. Non-compliance will constitute a nuisance subject to administrative penalties and revocation of the business license.

### **III. DESCRIPTION OF PROPOSED LCP AMENDMENT & AFFECTED SITE:**

The proposed amendment to the Humboldt County Local Coastal Program would change both the South Coast Area Land Use Plan (SCAP) and the Coastal Zoning Regulations to allow for a type of transient habitation (Vacation Home Rentals) in areas of Residential Single Family (RS) and Mixed Residential Use (R2) zoning within community of Shelter Cove. The amendments would affect approximately 2,300 parcels within the Shelter Cove subdivision (see Exhibits 1&2).

The proposal would amend the LUP to identify Vacation Home Rentals as a principally permitted use within Residential Medium and Low-Density land use designations. With

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respect to the Implementation Plan component of the LCP, the amendment would define the Vacation Home Rental (VHR) use type, add the VHR use to the list of defined Visitor-Serving Facilities, establish a Vacation Home Rental or “V” combining zone, and apply the “V” combining zone to all of the Residential Single Family and Mixed Residential parcels in the Shelter Cove community. Where applied, the “V” combining zone designation would allow for the short-term rental or transient use of single family homes and duplexes for vacation rentals upon issuance of a Special Permit, and subject to specified performance standards embedded within the combining zone regulation (see Exhibit No. 2 County Reso, SCAP Amdt. & Ord. No. 2153). The Special Permit process is a mechanism already embodied within the County Zoning Code for approving certain specified Temporary Uses. The process is similar to that used to approve a conditional use in that it requires public noticing. However, unlike the conditional use permit, a public hearing is only required if requested by a member of the public.

According to the County, the purpose of the amendment is to increase coastal public access by increasing visitor serving accommodations, and to ensure that the rental of residences for transient use takes place in a manner that is compatible with residential communities and neighborhoods. The aforementioned Special Permit process, which invokes specified performance standards to which the owner/operator of a Vacation Home Rental would be subject, is intended to achieve this objective. The performance standards proposed for inclusion via the proposed IP ordinance would establish parameters regarding the maximum number of occupants allowed, posting of signs, parking, and garbage disposal/pick-up. Additionally, the ordinance would require vacation rentals to obtain a business license, pay transient occupancy taxes, and be managed by a local contact person available 24 hours a day to respond to tenant and neighborhood questions or concerns (See Ordinance No. 2153 included in whole in Exhibit No. 2).

Shelter Cove, the area which would be affected by the proposed LCP amendment has been described as a resort community development (see Exhibit No. 1 Location Map). The Cove has long been recognized as a coastal vacation/recreation destination due to its unique location. The community is situated at the southern end of Humboldt County's Lost Coast and Kings Range National Conservation area, and the northern end of the Sinkyone Wilderness State Park, approximately 23 miles west of the town of Redway. The area was originally subdivided in the early 1960s into about 4,000 lots. The Land Use Plan for areas within Shelter Cove that would be affected by the plan and zoning amendments include areas classified as Residential/Medium Density and as Residential/Low Density (see Exhibit No. 4). Single-family residences are a principally permitted use in both classifications, and the specified purpose of the land use designations for these areas is to protect and make efficient use of the land for residential purposes. The amendment is proposed to apply only to Residential Single Family (RS)

and Mixed Residential (R2) parcels – approximately 2,300 lots. The specific area affected by the amendment is within the Resort Improvement District No.1 boundary and thus served by community water and sewer.

#### **IV. BACKGROUND**

According to the County, there is a demand for visitor serving accommodations within Shelter Cove because of the coastal resources and recreational opportunities that abound there. The Cove is known for its beauty, fishing and other recreational opportunities including beachcombing, boating, hiking etc. The County has indicated that historically homes have been rented on a transient basis. However, in 1985 the County adopted the Southcoast Area Plan and Coastal Zoning Ordinance which does not allow transient habitation of single family homes in RS and R2 zones. Nonetheless the County Planning Division has reportedly received a number of complaints from local residents regarding the use of single-family homes on a transient basis in violation of the local code. Presumably in response to such complaints/violation reports, property owners interested in renting their homes on a transient basis formed a committee and petitioned the County to effect an amendment to the LCP, which would allow or permit the transient use of single-family residential dwellings.

In December of 1997, the Humboldt County Board of Supervisors adopted Resolution No. 97-117, approving the proposed amendments to the Southcoast Area Plan and the Coastal Zoning Regulations, and submitted the same to the Commission seeking certification (see Exhibit No. 2 for Reso, SCAP Amdt. and Ordinance No. 2153 ). As noted in the County staff report for the subject amendments referred to as the “Franklin Ordinance Revision,” the Board considered a number of different mechanisms for regulating Vacation Home Rental use (VHR) in a manner that would carry out applicable resource protection policies concerning public access and the preservation of residential neighborhoods.

The staff report details the County’s decision to create a combining zone and utilize a Special Permit process for regulating vacation home rentals as a principally permitted use instead of using other alternatives, such as identifying VHR as a conditional use in the LUP. Within Shelter Cove, the Residential Multi-Family zoned parcels currently allow transient services or habitation with a conditional use permit. The Residential Single-Family parcels identify private institutions, recreation facilities and other neighborhood commercial uses as conditionally permitted. By creating and defining VHR as a separate type of transient habitation, the County indicates it intends to distinguish this use from more intense and inherently commercial uses such as hotels, and B&Bs, with the hope of

preventing incompatible uses from being located adjacent to each other, which would detract from the residential character of the affected neighborhoods.

Further, the proposed alternative was deemed more economically efficient for applicants and less time intensive overall. The Special Permit process is a mechanism already embodied within the County Zoning Code for approving certain specified Temporary Uses. The process is similar to that used to approve a conditional use in that the Special Permit process requires public noticing. However, unlike the conditional use permit process, a public hearing is only required if requested by a member of the public.

## **V. LAND USE PLAN AMENDMENT FINDINGS**

### **Introduction/Criteria for Analysis:**

The standard of review for the proposed amendment to the Land Use Plan (LUP) portion of Humboldt County LCP is the Chapter 3 policies of the Coastal Act. The proposal would amend the LUP to identify Vacation Home Rentals as a principally permitted use within Residential Medium and Low-Density land use designations. The amendment principally implicates Coastal Act policies addressing Public Access and Recreation, and concerning New Development/Adequacy of Services.

### **1. Coastal Public Access and Recreation**

#### **a. Coastal Act Policies:**

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30213 states, in relevant part:

Lower cost visitor and recreational facilities shall be protected, encouraged,

and where feasible, provided. Developments providing public recreational opportunities are preferred. ...

Coastal Act Section 30222 provides:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities shall have high priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal dependent developments or users.

Coastal Act Section 30252 requires:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the development.

**b. Analysis**

The above policies protect and enhance coastal access and recreation opportunities for the general public by, among other ways, prioritizing the provision of visitor-serving commercial facilities, particularly lower cost facilities and requiring that new development be accompanied by the planning and infrastructure necessary to accommodate the development. Section 30210 recognizes that the provision of maximum access must protect public rights, private property rights, and natural resource areas from overuse.

The opportunity to rent residences within coastal communities represents one way in which California residents and visitors enjoy the coast. In some instances, residential vacation rentals may provide a lower cost alternative to renting hotel or motel rooms, for large families or groups of individuals. A vacation rental provides an opportunity for

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visitors to stay in a resort destination, and to therefore have extended access to coastal recreational facilities and natural areas close by, as would be the case in Shelter Cove.

Therefore, amending the Southcoast Area Plan land use designations for areas within the Shelter Cove community classified as Residential/Medium Density (RM) and Residential/Low Density (RL), to include vacation home rentals as a principal use, would, in effect, expand the visitor services and recreational opportunities available to Shelter Cove visitors, by increasing both the amount and type of lodging options available for use. Because of Shelter Cove's unique setting and proximity to coastal recreational opportunities, enhancing the visitor serving accommodations there, by allowing for vacation home rentals in the area, is consistent with Sections 30213 and 30222 of the Coastal Act.

However, although vacation rentals provide visitor-serving and coastal recreation opportunities, this type of use also has the potential to compromise other public access/resource protection standards established by the Coastal Act and the LCP, and the integrity of the residential land use designations, without proper regulation. For example, vacation rentals can adversely affect the rights of day-use visitors to the area and adjacent residential property owners by placing increased demands on street parking used by both day-use visitors to the coast and residents alike, and by creating excessive noise and activity beyond that which is reasonable for a residential neighborhood. The Coastal Act Access and Recreation policies require that public access and recreation related uses are maximized in a manner consistent with the need to protect the rights of private property owners, and to protect natural resource areas from overuse.

The County's LCP amendment proposal seeks to address the potential adverse impacts of allowing vacation home rentals in this coastal community, such as increased parking demands, noise levels etc., by imposing a Special Permit process for the VHR use and subjecting the permit holder to certain performance standards. However, as proposed, the amendment would incorporate the requirement for a Special Permit, and the specification of relevant performance standards, into the Implementation Plan component of the LCP *only*. Amending the land use designations to add the more intense use type of vacation home rentals as a principally permitted use in residential areas without clarifying, within the LUP, the regulatory standards upon which this designation is based, does not provide sufficient guidance on the use of VHRs to ensure the LUP, as amended, remains consistent with applicable Coastal Act policies. While the IP component is the section of the LCP whereby more specific standards are appropriately identified, the inclusion of VHR as a principally permitted use unaccompanied by a general reference to the standards by which this new use must be governed does not ensure consistency with Coastal Act policies.

The Commission finds that regulatory standards addressing the potentially adverse resource related impacts associated with VHR use, are critical to a finding that inclusion

of this use as a principally permitted type within the residential designations, as proposed, is consistent with the aforementioned public access policies of the Coastal Act. Therefore the amendment to the LUP, as proposed, independent of any such reference, must be rejected. If, however, the proposed LUP amendment is modified in accordance with the following suggested modification, to include a reference to the regulatory permit process and standards applicable to the VHR use, the amendment would then be consistent with public access and recreation policies of the Coastal Act.

#### **Suggested Modification (A.) to the LUP Amendments**

Add the following language to Section 5.20 of the Southcoast Area Plan LUP. Language to be added to the existing policy is incorporated where proposed, and underlined. There are no proposed deletions to the text of the policy:

#### **Section 5.20 URBAN PLAN DESIGNATIONS**

...

(The standards below apply only within Urban Limits as shown in the Area Plan.)

...

#### **RM: RESIDENTIAL/MEDIUM DENSITY**

**Purpose:** to make efficient use of available land for residential purposes.

**Principal Use:** detached single family homes, duplexes, vacation home rentals in specified areas, and guest houses. Vacation home rentals are principally permitted only upon issuance of a Special Permit, and compliance thereafter with accompanying performance standards set forth in Section 313-37 of the Coastal Zoning Regulations, including but not limited to those addressing: maximum allowable occupancy, parking and demonstration of adequate public service capacity to support the use.

#### **RL: RESIDENTIAL/LOW DENSITY**

**Purpose:** to allow the development of homeowner residential uses making conservative use of urban land where adequate services are available.

**Principal Use:** detached single family residences, and vacation home rentals in specified areas. Vacation home rentals are principally permitted only upon issuance of a Special Permit, and compliance thereafter with accompanying performance standards set forth in Section 313-37 of the Coastal Zoning Regulations, including but not limited to those addressing: maximum allowable occupancy, parking and demonstration of adequate public service capacity to support the use.

The Commission notes here that the language of the suggested modification to the LUP imposed here, reflects and incorporates the standards proposed for inclusion in the IP, *as modified*, based on analysis contained in the IP section below.

### **c. Conclusion**

The Commission finds that the amendment must be denied as submitted because the inclusion of Vacation Home Rentals as an allowable land use in the LUP is unaccompanied by a reference to the standards necessary to ensure that the development of this use will take place consistent with the public access related policies of the Coastal Act. Thus, only with the Suggested Modification to incorporate a reference to the regulatory permit process and accompanying standards proposed to govern the use (as modified herein) can the LUP amendment be found consistent with Chapter 3 of the Coastal Act (see Section II. of this report for exact Suggested Modification).

## **2. New Development/Public Service Capacity**

### **a. Coastal Act Policy**

Section 30250 requires, in relevant part:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. ...

### **b. Analysis**



The primary means by which LCPs carry out Section 30250 and other Coastal Act resource protection requirements is to establish regulations regarding the allowable type, intensity and location of particular land uses. The submitted LUP amendment proposes to add the Vacation Home Rental (VHR) use type to the list of principally permitted uses within Residential Medium and Low-Density land use designations contained in the Southcoast Area Plan. Because this amendment would result in a potentially greater intensity of use allowable in these residential areas, the intensification of use is considered new development, subjecting the LUP amendment to review for conformance with Section 30250 of the Coastal Act. This section requires that new development be sited either near developed areas able to accommodate such development, or in other areas with adequate public services to support the development.

The Commission finds that the proposed addition of VHR use to the allowable uses in residential designations, without reference to the need to ensure that adequate public service capacity is available to serve such uses is inconsistent with Section 30250 of the Coastal Act. Therefore, an amendment to the LUP as proposed without any such reference must be rejected. If, however, the proposed LUP amendment is modified to include a reference to the need to ensure that adequate public service capacity is available to serve VHR uses, the Commission finds the amendment would then be consistent with Section 30250 of the Coastal Act.

#### **Suggested Modification (A.) to the LUP Amendments**

Add the following language to Section 5.20 of the Southcoast Area Plan LUP. Language to be added to the existing policy is incorporated where proposed, and underlined. There are no proposed deletions to the text of the policy:

#### **Section 5.20 URBAN PLAN DESIGNATIONS**

...

(The standards below apply only within Urban Limits as shown in the Area Plan.)

...

#### **RM: RESIDENTIAL/MEDIUM DENSITY**

**Purpose:** to make efficient use of available land for residential purposes.

**Principal Use:** detached single family homes, duplexes, vacation home rentals in specified areas, and guest houses. Vacation home rentals are principally permitted only upon issuance of a Special Permit, and compliance thereafter with accompanying

performance standards set forth in Section 313-37 of the Coastal Zoning Regulations, including but not limited to those addressing: maximum allowable occupancy, parking and demonstration of adequate public service capacity to support the use.

## **RL: RESIDENTIAL/LOW DENSITY**

**Purpose:** to allow the development of homeowner residential uses making conservative use of urban land where adequate services are available.

**Principal Use:** detached single family residences, and vacation home rentals in specified areas. Vacation home rentals are principally permitted only upon issuance of a Special Permit, and compliance thereafter with accompanying performance standards set forth in Section 313-37 of the Coastal Zoning Regulations, including but not limited to those addressing: maximum allowable occupancy, parking and demonstration of adequate public service capacity to support the use.

The Suggested Modification to the Land Use Plan detailed in Section II. of this report reflects the recommendation pertaining to the inclusion of a standard addressing public service capacity discussed here, and therefore if incorporated, will ensure the Land Use Plan amendment to include Vacation Home Rental Use sufficiently addresses the coastal resource protection criteria for new development established by Section 30250 and other Chapter 3 policies of the Coastal Act.

### **c. Conclusion**

The Commission finds that the amendment must be denied as submitted because the inclusion of Vacation Home Rentals as an allowable land use is not accompanied by standards necessary to ensure that the development of this use will take place consistent with Section 30250 and other Chapter 3 policies of the Coastal Act. Therefore, the Commission suggests that the amendment be modified to indicate that the VHR use is subject to regulatory standards which include a requirement for demonstration that sufficient public service capacity exists to support the increased intensity of use. Only with Suggested Modification A. can the amendment be found consistent with Chapter 3 of the Coastal Act.

With the addition of the modification described herein, the Commission finds the proposed amendment to the LUP, as modified, is consistent with Coastal Act Section 30250.

## **VI. IMPLEMENTATION PLAN FINDINGS**

### **Introduction/Criteria for Analysis:**

The standard of review for the proposed amendment to the Implementation Plan (IP) of the Humboldt County LCP is whether the IP, as amended, conforms with and is adequate to carry out the certified LUP, as amended and modified herein. The proposed amendment to the IP would create and define a Vacation Home Rental use type, add VHR to the list of defined Visitor-Serving Facilities, establish a Vacation Home Rental or “V” combining zone, and apply the “V” combining zone to Residential Single Family and Mixed Residential parcels in Shelter Cove. Where applied, the “V” combining zone designation would allow for the short-term rental or transient use of single family homes and duplexes for vacation rentals, upon issuance of a Special Permit, and subject to specified performance standards embedded within the combining zone regulation.

The purpose of the zoning amendments is to establish a regulatory procedure and standards by which to implement and govern Vacation Home Rental use in a manner consistent with the Land Use Plan as amended to allow VHR use in mixed and single-family residential neighborhoods. The standards are intended to ensure that this new use is carried out in a manner compatible with the goals and policies of the LUP concerning the enhancement of coastal access by increasing visitor serving facilities, and preserving the residential character of the communities where this new use would be permitted, by controlling and regulating this transient type of use.

### **1. Coastal Access and Recreation**

#### **a. LUP Provisions**

#### **Section 3.25 Recreational and Visitor Serving Uses**

\*\*\* 30213 (Part):

Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. ...

\*\*\* 30222 (Part):

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities shall have high priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

\*\*\* 30252:

The location and amount of new development should maintain and enhance public access to the coast by assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the development.

3.25

#### C. Standards for Commercial Parking

New commercial development shall provide for adequate parking and loading spaces consistent with the scale of the proposed development so as to prevent interference with coastal access opportunities.

#### **b. Analysis**

In accordance with the Coastal Act, the LUP seeks to protect and maximize coastal access and recreation opportunities in a manner that is consistent with the protection of coastal resources and residential properties. The regulation of residential vacation rentals plays an important role in implementing these LUP policies by ensuring that this visitor-serving use is conducted in a manner that protects access, natural resources, and the integrity of residential land use designations.

The intensity of use that occurs on a residential parcel being used as vacation rental exceeds that of a typical single-family residence in many ways. The number of people occupying vacation rentals, and the associated level of noise and activity, can increase demands on public infrastructure capacities and cause conflicts with adjacent property owners. Full-time residents concerned about the impacts that residential vacation rentals have on their community have asserted that their property rights, and the integrity of their residential neighborhoods, are being adversely affected by short-term rentals.

As described above, the proposed IP amendment would establish a Vacation Home Rental or “V” combining zone, and apply the combining zone to Residential Single Family and Mixed Residential parcels in Shelter Cove. Where applied, the “V” combining zone designation would allow for the short-term rental or transient use of single family homes and duplexes for vacation rentals, upon issuance of a Special Permit, and subject to specified performance standards embedded within the combining zone regulation. As proposed, this mechanism and accompanying standards should serve to adequately address the potentially adverse impacts of VHR use by: requiring compliance with residential parking standards, limiting the number of occupants in a rental to no more than ten (10) persons, requiring trash removal on a weekly basis, and requiring that a contact person for the rental, be available 24 hours a day to respond to any concerns, and ultimately be responsible for ensuring the rental unit is in compliance with these and other applicable standards (See Exhibit No. 2 for full text of Ordinance No. 2153 ).

With respect to specific concerns about the potential increased parking demand associated with VHR use and the effect on public access, ample off-site parking is available in the residential areas of Shelter Cove. Further, the main coastal recreational attractions are located in areas distinct from the residential neighborhood, and thus parking associated with VHR use should not significantly affect the availability of facilities to accommodate recreational access and/or day-use visitors to the beach, harbor, trails or other recreational hot spots in the region. Given these circumstances, the aforementioned parking standard requiring compliance with existing residential requirements – which principally correlate off-street spaces to the number of bedrooms in a residence – should indeed be adequate to accommodate the VHR use.

### **c. Conclusion**

The IP amendment includes regulatory standards adequate to address the potential adverse impacts associated with VHR use in a manner consistent with the coastal access and recreation related policies of the LUP, and the need to protect the integrity of residential neighborhoods. Therefore, the Commission find, as submitted, the proposed IP amendment is in conformance with, and should carry out, the LUP public access and recreation related policies cited above. In addition, the establishment of the new “V” combining zone designation which would allow use of single-family residences as vacation rentals subject to obtaining a special permit and documenting that the performance standards have been met, conforms with and carries out the requirements of Suggested Modification A of the LUP as proposed to be amended and modified.

## **2. New Development/Public Service Capacity**

### **a. LUP Provisions**

South Coast Area Development and Resource Policies:

3.20 Urban Development Policies and Standards

3.21 Urban Limits

\*\*\* 30250. (a)

New development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

3.21B 3.

The development of lands within the Urban Limit for the uses indicated in the Area Plan Map, and division of lands within the Urban Limit to the densities indicated in the Land Use Designations, are contingent on the ability of the area to accommodate that development or that density. More specifically, no lands within the Urban Limit shall be developed or divided as allowed by the Area Plan, unless the following findings are made in addition to any other findings required by this chapter or Section 3.40:

- a. That water supply and adequate provision for sewage disposal, as required by the use at the density permitted in the Area Plan, is available to the development or division;
- b. That the carrying capacity of major roads and of coastal access corridors is sufficient for all permitted uses, or that improvements to an adequate level can be provided at a cost affordable within the reasonable expectation of the County, or of an incorporated city where the Urban Limit surrounds the city;
- c. That the proposed development or division meets all standards for the use designated in the Area Plan, as set forth in Chapter 5 of this document.

Moreover, zoning of lands within the Urban Limit shall not allow such developments or divisions until such time as these findings can be made.

**b. Analysis**

In accordance with Section 30250 of the Coastal Act, the County's LUP incorporates policies which require that new development be sited either near developed areas able to accommodate such development, or in other areas with adequate public services to support the development. The intensity of use that occurs on a residential parcel being used as vacation rental exceeds that of a typical single-family residence. As an intensification of use, Vacation Home Rentals are considered "new development" and therefore subject to the aforementioned policies.

However, within the proposed IP amendment, which establishes a process to allow the use of VHRs in mixed and single-family residential parcels in Shelter Cove, neither the Special Permit process or accompanying performance standards include provisions for ensuring that adequate public services are available to accommodate the new use. While the Shelter Cove community is serviced by community water and sewer utilities, the capacity of their utilities is not unlimited and it is important that a process for ensuring that existing utilities are sufficient to meet the projected increase in service demand resulting from VHR use, on a case by case basis, exists. Therefore, an amendment to the IP as proposed without a performance standard requiring assurance that adequate public services will be available to accommodate the new VHR use must be rejected. If, however, the proposed IP amendment is modified with the following suggested modification to include such a performance standard, the Commission finds the amendment would then conform with and carry out the LUP provisions requiring the documentation of adequate and available public services.

## **B. Suggested Modifications to the IP Amendment**

Suggested modification to Ordinance No. 2153 proposed to amend Section 313-37 (formerly A314-65) of the Coastal Zoning Regulations (attached as Exhibit No. 2 ). Language to be added is underlined; language ~~stricken through~~ is to be deleted:

Section 313-37 (A314-65.) V-Vacation Home Rental

...

- E. Performance Standards. All vacation home rentals are subject to the following performance standards:

- (1) Compliance with residential parking standards as required by Section 313.109.1 (formerly 316.13) of this code;
- (2) The number of occupants shall not exceed ten (10) persons;
- (3) Availability of the rental unit to the public shall not be advertised on-site
- (4) Owners of rental units must provide the name, address and telephone number of a contact person for the unit to all occupied residences within a 300-foot radius of the rental unit. The notice shall be mailed to property owners prior to renting the unit and thereafter as contact information changes. An owner of a rental unit who does not reside in a five-mile radius of the residence being rented, shall designate a person within a 5-mile radius of the rental unit, as the local contact person. The owner or contact person must be available 24 hours a day to respond to tenant and neighborhood questions or concerns and to otherwise be responsible for assuring that the rental unit complies with the requirements of this Section, and other applicable provisions of the code;
- (5) Prior to commencing vacation home rentals, the applicant shall obtain a Business license from the Humboldt County Tax Collector. The owner/operator shall collect and remit to the Humboldt County Tax Collector the transient occupancy tax;
- (6) It is the responsibility of the property owner to ensure that trash will be disposed of (picked-up) on a weekly basis;
- (7) Prior to commencing vacation home rentals, the applicant shall submit evidence demonstrating that the service provider(s) has been informed of the proposed use of the property as a vacation rental, and has confirmed that there is adequate service capacity available to accommodate this use.
- ~~(7)~~ (8) Compliance with the requirements of this Section shall be considered conditions of approval. Non-compliance will constitute a nuisance subject to administrative penalties and revocation of the business license.



**c. Conclusion**

As submitted, the Implementation Plan amendment does not carry out LUP provisions requiring the demonstration of adequate and available public services, and therefore must be denied. Only with the suggested modification that requires applications for Vacation Home Rental use to provide evidence of the availability and adequacy of public services to support VHR use, will the implementation plan amendment effectively carry out the certified LUP. In addition, the inclusion of the performance standard that a Special Permit for a VHR use only be approved upon documentation of adequate service capacity will conform with and carry out the requirements of Suggested Modification B of the LUP as proposed to be amended and modified.

**VII. CEQA**

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

*... if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.*

As discussed in the findings above, the amendment request, as modified, is consistent with the California Coastal Act and will not result in significant environmental effects within the meaning of the California Environmental Quality Act.

**EXHIBITS:**

- 1) Regional Location Map
- 2) Location Map
- 3) County Submittal (in part): Humboldt County Resolution 97-117, SCAP Amdt. & Ordinance No. 2153.
- 4) Shelter Cove Zoning Map